

4831. Misbranding of Henry's Red Gum Compound. U. S. * * * v. Henry L. McNulty. Plea of guilty. Fine, \$25. (F. & D. No. 5942. I. S. No. 8841-e.)

On September 21, 1915, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Henry L. McNulty, Norwood, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act, as amended, on or about February 3, 1913, from the State of New York into the State of Vermont, of a quantity of Henry's Red Gum Compound which was misbranded. The article was labeled: (On carton) "Henry's Red Gum Compound The Great Cough and Cold Remedy Best for all Affections of the Throat and Lungs Prevents Pneumonia and Breaks up La Grippe Pleasant to Take Good for Both Old and Young Every Bottle Guaranteed Price 25 cents Manufactured only by H. L. McNulty Norwood, N. Y." (Same statement on back of carton.) (On sides of carton) "What Druggists and others say of Henry's Red Gum. Marion, N. Y., Sept. 25, 1902. H. L. McNulty, Norwood, N. Y.—Dear Sir: You may send us one gross of Henry's Red Gum. We sell more Red Gum than all other kinds of Cough Remedies combined. Yours Respectfully, J. B. Malcolm & Co. Painted Post, N. Y., Sept. 6, 1902. H. L. McNulty, Norwood, N. Y.—Dear Sir: You will find enclosed check to balance my account. Red Gum is all right it holds the old and brings new trade. Yours Very Truly, F. H. Loomis. Springfield, Ohio, Nov. 23, 1901. Law Office of James Johnson, Jr. H. L. McNulty, Norwood, N. Y.—Dear Sir: I send with this a label for Cough Remedy. I bought it at Burlington, Vt. Never used anything so good, and wish to get some more. Will you please send a couple of bottles, C. O. D., by express. Yours Truly, James Johnson, Jr. Caution Against Fraud Years of trial have demonstrated the fact, that for all Coughs, Colds, and Lung Diseases, Henry's Red Gum is wonderfully successful, in consequence of this, it has been repeatedly imitated, and the best way for the public to guard against such fraud is to look for the signature of H. L. McNulty Ph. G., which appears on every package of the genuine Red Gum Cough Remedy H. L. McNulty Ph. G. Manufacturer." (On top flap) "Guaranteed under the Food and Drugs Act, June 30, 1906, by H. L. McNulty, Serial No. 1848. Each Fluid Ounce Contains Heroin 1/8 Grain." (On bottle) "Guaranteed under the Food and Drugs Act, June 30, 1906. Guaranty No. 1848. Henry's (Trade Mark) Red Gum Cough Remedy. Each fluid ounce contains Heroin 1/8 grain, chloroform 2 Minims. A Soothing and Healing Balm for the Throat and Lungs Cures Coughs and Colds Promptly Breaks up La Grippe and Prevents Pneumonia Pleasant to take, and equally beneficial to Adults and Children. Directions: Adults—One-quarter to one teaspoonful, according to age. Shake Bottle Before Using. Price 25 cents. Manufactured only by H. L. McNulty Ph. G. Norwood, N. Y." (Blown in bottle) "Henry's Red Gum The Great Cough Remedy." The pamphlet or circular accompanying the article contained, among other things, the following: "The Universal Cure for all Throat and Lung Diseases, Coughs, Colds, Croup, La Grippe, Bronchitis, Pneumonia and Asthma." "Henry's Red Gum controls the cough because it quiets the congestion, and stops the inflammation."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Alcohol (per cent by volume)-----	2.73
Chloroform (minim)-----	1.0
Heroin (grain)-----	0.086
Glycerin (per cent)-----	11.4
Sucrose (per cent)-----	28.6
Invert sugar (per cent)-----	21.7
Ash (per cent)-----	6.25
Lime, gum, and phenolic resin-----	Present.

Misbranding of the article was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof appearing on the label of the carton aforesaid, to wit, "Henry's Red Gum Compound * * * Best for all Affections of the Throat and Lungs Prevents Pneumonia and Breaks up La Grippe * * * for all * * * Lung Diseases, Henry's Red Gum is wonderfully successful," and included in the circular or pamphlet aforesaid, to wit, "The Universal Cure for all Throat and Lung Diseases, * * * Croup, La Grippe, Bronchitis, Pneumonia and Asthma," were false and fraudulent in that the same were applied to the article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that it was, in whole or in part, composed of, or contained, ingredients or medicinal agents effective as a remedy for all affections of the throat and lungs, as a preventive of pneumonia, and as a cure for all throat and lung diseases, croup, la grippe, bronchitis, pneumonia, and asthma, when, in truth and in fact, it was not, in whole or in part, composed of and did not contain such ingredients or medicinal agents. Misbranding was alleged for the further reason that the article contained, to wit, 1 minim of chloroform and 0.086 grain of heroin per ounce, and its package failed to bear a statement on the label of the carton of the quantity or proportion of chloroform and heroin contained therein; and for the further reason that it contained 2.73 per cent of alcohol by volume, and its package failed to bear statements on the labels of the bottle and carton of the quantity or proportion of alcohol contained therein. Misbranding was alleged for the further reason that the following statement, appearing on the label aforesaid in prominent type, as the trade name of the article of drugs, to wit, "Henry's Red Gum Compound," was false and misleading in that it indicated to the purchasers thereof that the article was composed of, and contained, red gum, a harmless medicinal agent as its principal and most active ingredient, when, in truth and in fact, it was not composed of, and did not contain, red gum as its principal and most active ingredient, but did contain as its principal and most active ingredients, to wit, heroin and chloroform, dangerous, habit-forming drugs.

On September 28, 1915, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$25.

CARL VROOMAN,
Acting Secretary of Agriculture.